

UNITED STATES BANKRUPTCY COURT

FOR THE

EASTERN DISTRICT OF VIRGINIA
Alexandria Division

In the Matter of:

CHEOL MI RIM

Debtor

Chapter 13

Case No. 15-13174-BFK

MOTION TO DISMISS,
NOTICE OF MOTION TO DISMISS
AND
NOTICE OF SCHEDULED HEARING ON THIS MOTION

Thomas P. Gorman, Chapter 13 Trustee, has filed this motion to dismiss your Chapter 13 case. The cause for this motion is as follows:

Violation of Bankruptcy Rule 4002(b)(1) and 11 U.S.C. §521(a)(3) – Failure to cooperate with the Office of the Chapter 13 Trustee. Failure of the Debtor to produce verification of her Social Security number at her October 13, 2015 Section 341 Meeting of Creditors. Instead, Debtor presented her husband's Social Security card to Trustee.

Violation of 11 U.S.C. §109(e) – Exceeds Statutory Debt Limit & 11 U.S.C. §1307(c) – Petition Not Filed in Good Faith

Debtor's Schedule D shows a total of \$1,148,040.00 in secured debt, which does not include the second deed of trust on Debtor's residence held by Ocwen Loan Servicing, LLC in the amount of \$122,125.00 and listed on Schedule F.¹ Additionally, BB&T has filed a secured claim in the amount of \$12,228.71 (Claim No. 1) that is not listed in Debtor's Schedules² and brings her total secured debt to \$1,282,393.71, inclusive of the second deed of trust claim, which exceeds the statutory secured debt limit of \$1,149,525.00 under §109(e).

Additionally, Debtor did not file her Chapter 13 petition in good faith as she already knew she is not eligible to be a Chapter 13 debtor. This is Debtor's second Chapter 13 case. Debtor's first Chapter 13 case 15-10758-BFK was filed as a joint case with her husband, Sung Se Rim, on March 4, 2015. Based on the Schedule F filed in that case showing that Debtor and her husband's unsecured debt totaled \$507,875.00

¹ Debtor's Chapter 13 Plan proposes to avoid the second deed of trust on her residence, which cannot be done as Debtor owns her residence with her husband as tenants by the entireties.

² A Proof of Claim for this debt was also filed in Debtor's prior Chapter 13 case as Claim No. 12.

Notice and Motion to Dismiss

Cheol Mi Rim, Case #15-13174-BFK

and exceeded the statutory debt limit, Trustee filed a Motion to Dismiss under 11 U.S.C. §109(e).³ Shortly before the hearing on Trustee's Motion to Dismiss, Debtor's husband Sung Se Rim filed a Notice of Voluntary Conversion to Chapter 7 on May 20, 2014 (Doc. No. 34), and Debtor consented to Trustee's Motion to Dismiss and conceded that her unsecured debts exceeded the statutory debt limit under §109(e). An Order Granting Trustee's Motion to Dismiss under 11 U.S.C. §109(e) was endorsed by Debtor's counsel and entered by the Court on May 20, 2014 (Doc. No. 38).

In Debtor's present case, Debtor's Schedule F only shows \$244,022.00 in unsecured debt. Upon comparison of Debtor's Schedule F filed in her present case and the Schedule F filed in her prior Chapter 13 case, Trustee notes that several of Debtor's individual and joint debts listed in her prior case are inexplicably missing from her Schedule F filed in this case. To date, there has already been one unlisted⁴ unsecured claim filed in this case by BB&T (Claim No. 2) in the amount of \$1,923.91.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not wish the court to grant the relief sought in the motion, or if you want the court to consider your views on the motion, then on or before five business days prior to the hearing date, you or your attorney must:

File with the court a written response with supporting memorandum as required by Local Bankruptcy Rule 9013-1(H). Unless a written response and supporting memorandum are filed and served by the date specified, the Court may deem any opposition waived, treat the motion as conceded, and issue an order granting the requested relief without further notice or hearing. If you mail your response to the court for filing, you must mail it early enough so the court will receive it on or before five business days prior to the scheduled hearing. You must mail a copy to the persons listed below.

Attend the hearing to be held on November 12, 2015 at 1:30 p.m. in Courtroom #3 on the 3rd floor, United States Bankruptcy Court, 200 South Washington Street, Alexandria, VA 22314. If no timely response has been filed opposing the relief requested, the court may grant the relief without holding a hearing.

A copy of any written response must be mailed to the following persons:

Thomas P. Gorman
300 North Washington Street, Ste. 400

³ Trustee notes that Debtor and her husband marked every single claim listed on their Schedules D and F as "unliquidated" and a significant number of claims listed on Schedule F were listed as "Notice purpose" and amounts "unknown" (but nonetheless marked as "unliquidated").

⁴ A Proof of Claim for this debt was also filed in Debtor's prior Chapter 13 case as Claim No. 11.

Notice and Motion to Dismiss

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Alexandria, VA 22314

Clerk of the Court
United States Bankruptcy Court
200 South Washington Street
Alexandria, VA 22314

If you or your attorney do not take steps, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief.

Date: __October 23, 2015__

___/s/ Thomas P. Gorman_____
Thomas P. Gorman
Chapter 13 Trustee
300 N. Washington Street, #400
Alexandria, VA 22314
(703) 836-2226
VSB 26421

CERTIFICATE OF SERVICE

I hereby certify that I have this 23th day of October, 2015, served via ECF to authorized users or mailed a true copy of the foregoing Motion to Dismiss, Notice of Motion and Notice of Hearing to the following parties.

Cheol Mi Rim
Chapter 13 Debtor
5333 Blue Aster Circle
Centreville, VA 20120

Weon Geun Kim
Attorney for Debtor
8200 Greensboro Drive, Suite 900
McLean, VA 22102

____/s/ Thomas P. Gorman_____
Thomas P. Gorman